

Fiscal Estimate - 2017 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 17-2426/1	Introduction Number AB-0196
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Description
 possession of or use of a credit card scanner, providing civil immunity for sellers or distributors of fuel for scanners installed on pumps, and providing criminal penalties

Fiscal Effect

State:

No State Fiscal Effect
 Indeterminate

<input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs
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Local:

No Local Government Costs
 Indeterminate

1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
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Fund Sources Affected	Affected Ch. 20 Appropriations
<input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	

Agency/Prepared By	Authorized Signature	Date
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Fiscal Estimate Narratives

SPD 4/19/2017

LRB Number	17-2426/1	Introduction Number	AB-0196	Estimate Type	Original
Description possession of or use of a credit card scanner, providing civil immunity for sellers or distributors of fuel for scanners installed on pumps, and providing criminal penalties					

Assumptions Used in Arriving at Fiscal Estimate

The State Public Defender (SPD) is statutorily authorized and required to appoint attorneys to represent indigent defendants in criminal and certain commitment proceedings. The SPD plays a critical role in ensuring that the Wisconsin justice system complies with the right to counsel provided by both the state and federal constitutions. Any legislation has the potential to increase SPD costs if it creates a new criminal offense, expands the definition of an existing criminal offense, or increases the penalties for an existing offense.

This bill creates several new crimes related to credit card scanners and the use of credit card scanners in identity theft. First, this bill makes it a Class I felony for an individual to possess a credit card scanner with the intent to commit identity theft. Second, this bill makes it a Class H felony for an individual that possesses a credit card scanning device or reencoder with the intent to transfer it to another person, knowing that the transferee will use it to commit identity theft. Third, this bill makes it a Class H felony to attempt to use a credit card scanner or reencoder to commit identity theft. Finally, if the individual using the credit card scanner or reencoder obtains, purchases, or receives credit, money, goods, services, or any other thing of value resulting from the use of the credit card scanner or reencoder, they are guilty of a Class G felony.

This bill also makes the seller of motor vehicle fuel from pumps that are capable of reading credit cards and any person who owns or operates an automated teller machine immune from civil liability if those machines are compromised by credit card scanners or reencoders.

It is possible that given the new criminal charges, the SPD will see an increase in the number of cases in which it provides representation. We are unable, however, to quantify the number of cases that might occur due to the provisions in the bill and how many people would meet the eligibility requirements for SPD services. The SPD's average cost to provide representation with a private bar attorney in a felony case was \$512.17 in fiscal year 2016. Because of the annual caseloads for staff attorney positions specified for budgeting purposes under § 977.08(5), Stats., it would be more cost effective to add staff attorney positions if a significant number of SPD cases resulted from this provision of the bill.

Because probation or prison could be ordered upon conviction for the proposed crime, this change could indirectly lead to additional cases in which the Department of Corrections (DOC) would seek to revoke probation or extended supervision. The SPD provides representation in proceedings commenced by the Department of Corrections (DOC) to revoke supervision. Thus, the bill could indirectly increase the number of cases in which the SPD appoints attorneys in revocation proceedings. The average cost during fiscal year 2016 for SPD representation by a private bar attorney in a revocation proceeding was \$286.98.

This bill could also have a fiscal impact on counties. There are some defendants who, despite exceeding the SPD's statutory financial guidelines, are constitutionally eligible for appointment of counsel because it would be a substantial hardship for them to retain an attorney. The court is required to appoint counsel at county expense for these defendants. The counties could also incur additional costs associated with incarceration of defendants, both pending trial and after sentencing.

Long-Range Fiscal Implications